

## REMARKS

Claims 1 - 20 remain active in this application. New claims 21 - 26 have been added to more fully claim the subject matter regarded as the invention. Claims 23 and 24 generally follow claims 1 and 11 including language as agreed upon in a interview by telephone with Examiner Goldberg and Supervisory Patent Examiner Nguyen on November 29, 2006; which opportunity afforded by the Examiner is gratefully acknowledged. Claims 25 and 26 include language as agreed upon at the interview but are of different scope from claims 23 and 24. Claims 1 and 11 have been amended to further distinguish the refresh and recording droplets in the manner agreed upon in the interview but with alternative language. Support for the amendments of the claims is found throughout the application, particularly on pages 13 - 14 and 16 of the specification as originally filed. No new matter has been introduced into the application.

Claims 1, 2, 4 - 8, 10 - 12, 14 - 18 and 20 have been rejected under 35 U.S.C. §102 as being anticipated by Schneider et al. Claims 3, 9, 13 and 19 have been rejected under 35 U.S.C. §103 as being unpatentable over Schneider et al. in view of Seachman et al. both of these grounds of rejection are respectfully traversed.

It was previously pointed out that the present invention is clearly distinguished from Schneider et al. because the present invention is a drop-on-demand type of device while that of Schneider et al. is a continuous ejection device in which ink is continuously discharged from the nozzle in a stream which is later broken into individual droplets which impinge of the recording medium if not deflected to a collector. Therefore, as pointed out in the above-acknowledged interview, there is no need for use of any refresh

droplets since the type of device disclosed by Schneider is not subject to ink drying in the nozzles between ejection droplets and, indeed, no refresh droplets or, for that matter, droplets of any particular type or for any distinct purpose other than for recording (although some are not allowed to reach a recording medium) are ejected at all in Schneider et al. since the ink is in the form of a continuous stream or "filament" as it leaves the nozzle. (See, for example, column 1, lines 41 - 57.)

To further emphasize this clear distinction from Schneider et al., it was proposed to the Examiner at the above-acknowledged interview to recite the ejection of both recording droplets and refresh droplets and to further distinguish the recording and refresh droplets from each other by recitation of difference in their physical properties or the manner of their ejection. It was agreed between the undersigned, the Examiner and Supervisor Nguyen that such language would distinguish the claims from Schneider et al. However, Mr. Nguyen indicated that such amendments would raise new issues and would not be entered without filing a Request for Continued Examination (which is filed concurrently herewith) notwithstanding the fact that the issue asserted to be a new issue was clearly raised by previously submitted arguments which were deemed non-persuasive while explicitly asserting equivalency between ink droplets which do not reach a recording medium and the refresh ink droplets claimed (which effectively admits the impropriety of a rejection for anticipation by Schneider et al.). Claims 1 and 11 have been amended to similarly distinguish the recording and refresh droplets by their respective different amounts of deflection for a given applied deflection power.

It is also respectfully submitted that this clear deficiency of Schneider et al. is not mitigated by

Seachman et al. and the Examiner has not asserted that it does; the Examiner relying on Seachman et al. only for teaching optical droplet detectors. Rather, it is respectfully submitted that the above amendments emphasize the impropriety of the combination of Seachman et al. with Schneider et al. to detect defects in an ink jet nozzle based on a refresh droplet. Therefore, it is respectfully submitted that the Examiner has not made and cannot make a *prima facie* demonstration of anticipation or obviousness of the claimed subject matter based on Schneider et al. taken alone or in combination with Seachman et al., particularly in regard to the claims as now amended, and that the grounds of rejection of record are effectively admitted to be in error in view of the Examiner's comments in response to previously submitted remarks. Therefore, it is respectfully submitted that the above amendments clearly place the application in condition for allowance and reconsideration and withdrawal of the grounds of rejection of record is clearly in order. Accordingly, such actions are respectfully requested.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

A petition for a two-month extension of time has been made above. If any further extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies

in fees and credit any overpayment of fees to  
Attorney's Deposit Account No. 50-2041.

Respectfully submitted,



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